

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE:

B-220619

DATE:

November 14, 1985

MATTER OF:

Blane Enterprises, Inc.

## DIGEST:

1. In reviewing protests against allegedly improper evaluations, GAO will not substitute its judgment for that of the agency's evaluators, but rather will examine the record to determine whether the evaluators' judgments were reasonable and in accord with listed criteria, and whether there were any violations of procurement statutes and regulations. In camera review of source selection documents shows that evaluation was fair and consistent with evaluation scheme in the solicitation.
2. Price need not be considered where a proposal is properly rejected as technically unacceptable.

Blane Enterprises, Inc. protests the exclusion of its proposal from the competitive range and award of a contract to Fire Research Corporation (FRC) under request for proposals (RFP) No. DABT60-85-R-0117 issued by the Department of the Army (Army), Fort Eustis, Virginia, for live fire thermal monitoring systems. Blane contends that the Army failed to adhere to the RFP's evaluation scheme and did not evaluate the price proposals to ensure that the awardee could satisfactorily complete the requirement.

We deny the protest.

A firm fixed price contract was contemplated. The RFP's evaluation criteria in section "M" provided that the technical evaluation would consist of ensuring that a proposal met the minimum requirements in section C, the Statement of Work; that each proposal would be categorized

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as acceptable, susceptible to being made acceptable, or unacceptable, with a definition of each of these terms; and that award would be made to that offeror "who submits an acceptable technical proposal, as determined by technical evaluation, and has the lowest evaluated price (cost) for satisfactory completion of the requirement."

Four proposals were received in response to the RFP, and evaluated by a three member technical evaluation board. Based on the board's findings, the contracting officer determined that two proposals, including Blane's, were unacceptable, and that two were susceptible of being made acceptable. After negotiating with the offerors of the latter two proposals, the contracting officer awarded a contract to Fire Research Corporation, the acceptable offeror with the lower price.

At the outset, Blane complains that it has not been provided some evaluation materials which the Army considers privileged information. (The Army has provided the materials to our Office for our in camera review.) Blane's recourse, however, is to pursue the information from the Army and not from our Office. C.M.P., Inc., B-216508, Feb. 7, 1985, 85-1 C.P.D. ¶ 156.

Blane contends that its technical proposal was not evaluated and categorized in accordance with section "M" of the solicitation. According to Blane, its entire proposal was not categorized as unacceptable as specified by section "M"; only certain elements were unacceptable. Blane also contends that the Army used two technical evaluation factors not specified in section "M" and that it was the use of these two factors that led to an overall unacceptable technical rating for its proposal.

In reviewing complaints about the evaluation of technical proposals, and the resulting determination of whether proposals are within the competitive range, this Office does not independently determine the relative merits of proposals, since the evaluation of proposals is within the procuring agency's discretion. We limit our review to an examination of whether the evaluation was reasonable and in accordance with the listed evaluation

criteria, and we will not question an agency's technical evaluation unless it is shown to be arbitrary or in violation of procurement statutes and regulations. E.R. Johnson and Associates, Inc., B-217059, May 8, 1985, 85-1 C.P.D. ¶ 513.

Based on our in camera review of all pertinent evaluation documents, we conclude that the Army's evaluation had a reasonable basis and was in conformity with the evaluation provisions of the RFP.

Blane's protest that the Army used two unspecified evaluation factors apparently stems from Blane's reading of the technical evaluation board's narrative findings about its proposal. The board's report outlined two factors which were used in determining the technical qualifications of individual vendors. Factor 1 (system composition, capabilities, and characteristics) addressed the vendor's understanding of, and technical approach for meeting, the requirements of the system. Factor 2 (technical and other requirements) addressed delivery schedules and manual preparation.

Blane is correct that these evaluation factors were not listed in the solicitation. However, these factors merely measure specific requirements outlined in section "C" of the solicitation. Blane's proposal failed to address certain requirements. For example, Blane failed to address solicitation requirements for a video camera capable of driving up to 4 TV monitors or VCR's without buffering; a remote control capability from a "user friendly" control unit for specified tank thermal sight (TTS) adjustments; and the ability of the TTS and camera to function in specified operating and storage temperatures. Therefore, we see nothing wrong with the agency's evaluation approach.

Moreover, contrary to Blane's assertion, its overall technical proposal was characterized as unacceptable. Our review of the contracting officer's determination of the competitive range, in a document not furnished to Blane, shows that the contracting officer determined that because Blane's offer did not meet the minimum requirements of section "C" of the solicitation, it was unacceptable. The record supports that determination.

Blane also protests that the Army did not evaluate its price. The purpose in having price as an evaluation factor in a negotiated procurement is to ensure that the prices proposed by qualified offerors will be taken into account prior to the making of the award. That purpose does not extend to considering the offered prices of firms, such as Blane, whose proposals are technically unacceptable. ALM, Inc., et al., B-217284, et al., Apr. 16, 1985, 85-1 C.P.D. ¶ 433.

Here negotiations were conducted with the two acceptable firms. Award was made to Fire Research Corporation, the lower-priced offeror. In this regard, the contracting officer discussed the proposed rates of Fire Research with the Defense Contract Audit Agency, and determined its price was fair and reasonable based on the competitive offers received and evidenced an understanding of the requirements.

The protest is denied.

*for Seymour Ebers*  
Harry R. Van Cleve  
General Counsel